

# HOUSE . . . . . No. 2494

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to the collection of taxation on capital gains. Revenue.

## The Commonwealth of Massachusetts

### PETITION OF:

Bradley H. Jones, Jr.	Donald F. Humason, Jr.
Mary S. Rogeness	Susan W. Pope
George N. Peterson, Jr.	Shirley Gomes
John A. Lepper	Michael J. Coppola
Viriato Manuel deMacedo	Todd M. Smola
Elizabeth A. Poirier	

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE COLLECTION OF THE CAPITAL GAINS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 29 of the General Laws, as appearing in  
2 the 2002 Official Edition, is hereby amended by adding after  
3 section 2CCC the following section:—

4 Section 2DDD. There shall be established and set up on the  
5 books of the commonwealth a separate fund to be known as the  
6 Capital Gains Revenue Trust Fund. There shall be credited to  
7 such trust fund the following revenues:

8 The net sums received due to the taxation of capital gain  
9 income, as defined in subsection (m) of section 1 of chapter 62,  
10 under the provisions of subdivisions (1) and (3) of subsection (b)  
11 of section 2 of said chapter 62, modified as required by section 6F  
12 of said chapter 62, at the rate provided by subsection (a) of  
13 section 4 of said chapter 62 and subsection (c) of said section 4 of  
14 said chapter 62; in calendar year 2005, 20% of said net sums; in  
15 calendar year 2006, 40% of said net sums; in calendar year 2007,

16 60% of said net sums; and in calendar year 2008, 80% of said net  
17 sums.

18 Amounts so credited to the Capital Gains Revenue Trust Fund  
19 as required under this section shall be received and held in trust  
20 by the commonwealth and shall be deposited into the General  
21 Fund, without prior appropriation, not sooner than January 2 of  
22 the calendar year following the collection of such amounts by the  
23 department of revenue.

1 SECTION 2. Section 5B of chapter 29, as most recently  
2 amended by section 163 of chapter 26 of the acts of 2003, is  
3 hereby further amended by striking out the eighth paragraph and  
4 inserting in place thereof the following paragraph:—

5 On or before January 15, the commissioner shall meet with the  
6 house and senate committees on ways and means and shall jointly  
7 develop a consensus tax revenue forecast for the budget for the  
8 ensuing fiscal year which shall be agreed to by the commissioner  
9 and said committees. In developing such a consensus tax revenue  
10 forecast, the commissioner and said committees, or subcommit-  
11 tees of said committees, are hereby authorized to hold joint hear-  
12 ings on the economy of the commonwealth and its impact on tax  
13 revenue forecasts; provided, however, that in the first year of the  
14 term of office of a governor who has not served in the preceding  
15 year, said parties shall agree to the consensus tax revenue forecast  
16 not later than January 31 of said year. Said estimate shall be net of  
17 the amount necessary to transfer, from the General Fund to the  
18 commonwealth's Pension Liability Fund, to fund the system  
19 according to the schedule established pursuant to paragraph (1) of  
20 section 22C of chapter 32. Said consensus tax estimate shall also  
21 include the amounts most recently deposited into the General  
22 Fund from the Capital Gains Revenue Trust Fund under the provi-  
23 sions of section 2DDD of chapter 29, and shall not include any  
24 amounts not yet deposited into the General Fund from said Capital  
25 Gains Revenue Trust Fund nor any anticipated capital gains col-  
26 lections scheduled to be deposited into the Capital Gains Revenue  
27 Trust Fund. The department of revenue shall report on a monthly  
28 basis to the house and senate committees on ways and means and  
29 the joint committee on taxation the amount of revenues estimated  
30 to be collected in that month from capital gains income. Said con-

31   sensus tax revenue forecast shall be included in a joint resolution  
32   and placed before the members of the general court for their con-  
33   sideration. Such joint resolution, if passed by both branches of the  
34   general court, shall establish the maximum amount of tax revenue  
35   which may be considered for the general appropriation act for the  
36   ensuing fiscal year.

1     SECTION 3. Chapter 29 of the General Laws, as appearing in  
2   the 2002 Official Edition, is hereby amended by striking section  
3   2DDD and inserting the following section:—

4     Section 2DDD. There shall be established and set up on the  
5   books of the commonwealth a separate fund to be known as the  
6   Capital Gains Revenue Trust Fund. There shall be credited to  
7   such trust fund the following revenues:

8     The net sums received due to the taxation of capital gain  
9   income, as defined in subsection (m) of section 1 of chapter 62,  
10   under the provisions of subdivisions (1) and (3) of subsection (b)  
11   of section 2 of said chapter 62, modified as required by section 6F  
12   of said chapter 62, at the rate provided by subsection (a) of section  
13   4 of said chapter 62 and subsection (c) of said section 4 of said  
14   chapter 62.

15   Amounts so credited to the Capital Gains Revenue Trust Fund  
16   as required under this section shall be received and held in trust  
17   by the commonwealth and shall be deposited into the General  
18   Fund, without prior appropriation, not sooner than January 2 of  
19   the calendar year following the collection of such amounts by the  
20   department of revenue.

1     SECTION 4. Section 5B of chapter 29, as most recently  
2   amended by section 163 of chapter 26 of the acts of 2003, is  
3   hereby further amended by striking the eighth paragraph and  
4   inserting in place thereof the following paragraph:—

5     On or before January 15, the commissioner shall meet with the  
6   house and senate committees on ways and means and shall jointly  
7   develop a consensus tax revenue forecast for the budget for the  
8   ensuing fiscal year which shall be agreed to by the commissioner  
9   and said committees. In developing such a consensus tax revenue  
10   forecast, the commissioner and said committees, or subcommit-  
11   tees of said committees, are hereby authorized to hold joint hear-

ings on the economy of the commonwealth and its impact on tax revenue forecasts; provided, however, that in the first year of the term of office of a governor who has not served in the preceding year, said parties shall agree to the consensus tax revenue forecast not later than January 31 of said year. Said consensus tax estimate shall be net of the amount necessary to transfer, from the General Fund to the Commonwealth's Pension Liability Fund, to fund the system according to the schedule established pursuant to paragraph (1) of section 22C of chapter 32. Said consensus tax estimate shall also include the amounts most recently deposited into the General Fund from the Capital Gains Revenue Trust Fund under the provisions of section 2DDD of chapter 29, and shall not include any amounts not yet deposited into the General Fund from said Capital Gains Revenue Trust Fund, and shall not include any amounts due to the taxation of capital gain income, as defined in subsection (m) of section 1 of chapter 62, under the provisions of subdivisions (1) and (3) of subsection (b) of section 2 of said chapter 62, modified as required by section 6F of said chapter 62, at the rate provided by subsection (a) of section 4 of said chapter 62 and subsection (c) of said section 4 of said chapter 62, anticipated by the commissioner for any current or future tax year. The department of revenue shall report on a monthly basis to the house and senate committees on ways and means and the joint committee on taxation the amount of revenues estimated to be collected in that month from capital gains income. Said consensus tax revenue forecast shall be included in a joint resolution and placed before the members of the general court for their consideration. Such joint resolution, if passed by both branches of the general court, shall establish the maximum amount of tax revenue which may be considered for the general appropriation act for the ensuing fiscal year.

SECTION 5. Sections 3 and 4 of this act shall take effect on January 1, 2009.